

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Robert A. Immerman and Russell Benton Snell
Serial No. : 09/822,154 Confirmation No.: 6306

REMARKS

In the Office Action mailed September 24, 2002, the Examiner has rejected claims 1-6 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner states that the specification does not disclose that there are two fastening arrangements. Applicant respectfully submits that page 3, sixth complete paragraph as amended in the preliminary amendment received in the Patent Office on June 25, 2001, states that "by attaching each of the two transverse side wires **6** and **8** to a pair of adjacent wire struts or supports" (emphasis added) discloses two fastening arrangements. In addition, to better clarify the specification, applicant herein amends the specification, page 4, to more clearly disclose two fastening arrangements. Support for this amendment can be found in FIGs. 2 and 3 which show two fastening arrangements. No new matter has been added.

The Examiner has rejected claims 11-16 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards at the invention. Applicant herein amends claim 11 to delete the reference to "the head" and "the neck", for which there is no antecedent basis, and notes that claim 16 is canceled and claims 12-15 depend from claim 11.

The Examiner has rejected claims 1, 6-8, 11, and 16-19 under 35 U.S.C. §102(b) as being clearly anticipated by Isenberg, U.S. Patent No. D121,813. The Examiner states that Isenberg shows

a first pair of horizontal, generally parallel, rigid wires (in yellow), a second pair of non-parallel rigid wires (in orange) transverse to and engaging the first pair of rigid wires defining a generally rectangular opening for receiving the head of a suction cup and for retaining the neck in the opening, and two fastening arrangements that holds the second pair of wires attached to the fixture (in blue). The suction cup has a compressible head attached to a neck, the neck is attached to an engagement member, the head is insertable into the opening and the neck is retained in the opening. The Examiner also responds to applicant's arguments in the Response to Office Action filed on 20 August 2002. The Examiner states disagreement with applicant's argument that the wires of Isenberg do not form a generally rectangular opening and states that the first wires in yellow and the second wires in orange form a generally rectangular opening in a 3-dimensional sense.

Applicant respectfully traverses this rejection. Applicant herein cancels claims 7 and 16-19. Applicant also amends claims 1 and 11 to better define the invention; applicant adds the phrase "planar" and "co-planar" to illustrate that the first and second pairs of wires are in the same plane and applicant amends the phrase "transverses" to be "is transverse to". FIGs. 2 and 3 show the device to have co-planar wires which are transverse to each other. Applicant respectfully states that the term "rectangular" as used in claims 1 and 11 is used to mean "shaped like a rectangle" in two-dimensional space which is an accepted meaning in the art for this term; the rectangular opening must be rectangular in a two dimensional plane, as shown in FIGs. 1, 2, and 3 and described in amended claims 1 and 11 by the phrase "planar". The phrase "generally rectangular" is used to illustrate that the sides of the opening may not form an exact or precise rectangle, that is, that the angles of the opening are about 90 degrees not exactly 90 degrees. Thus, applicant traverses the Examiner's argument that because Isenberg's first wires in yellow and the second wires in orange form a generally rectangular opening in a 3-dimensional sense, Isenberg anticipates applicant's

invention. Further, Isenberg's second wires extend both vertically and horizontally from the first wires; these second wires do not transverse each first wire as stated in claims 1 and 11. The meaning of the term "transverse" as used by applicant is "across in two dimensions" as shown in FIGs. 1, 2, and 3. The limitation of "planar" along with "generally rectangular opening" and the limitation of "second ... wires ... transverse to ... each wire of said first ... wires" are specific limitations in the claims which are not found in Isenberg, wherefor Isenberg cannot support a rejection under 35 U.S.C. 102(b). Further, applicant's invention would not be obvious to one skilled in the art given Isenberg since applicant's invention provides more utility, durability and stability than Isenberg. Applicant's invention saves manufacturing time and expense over Isenberg because applicant's second wires are not bent as Isenberg's are. Applicant notes that claim 6 depends from claim 1. Each of these independent claims 1 and 11 claim "planar ... wires" along with a "generally rectangular opening" which is a limitation not found in Isenberg; claims 6 and 18-19 are canceled herein. Thus, applicant respectfully requests that the rejection of claims 1 and 11 based on Isenberg be withdrawn.

It should be noted that Isenberg has functional disadvantages not found in the presently claimed invention. Referring particularly to FIG. 1 of Isenberg, it shows two parallel vertical wires on opposite sides of the neck of each suction cup, and a horizontal wire across the top of the neck. The soap dish can be easily withdrawn from the suction cups by the exertion of a vertical force upwardly against the bottom of the soap dish, which will dislodge the soap dish since there is nothing beneath the neck of the suction cup to hold the soap dish in place. On the other hand, in the present invention, the lower wire beneath the neck of the suction cup holds the fixture in place - an upforce from beneath the fixture drives the lower wire into the neck and prevents the fixture from being dislodged from the suction cup.

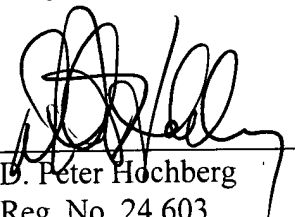
The Examiner has rejected claims 7-9 under 35 U.S.C. §102(b) as being clearly anticipated by Cura, U.S. Patent No. D210,833. Applicant herein cancels claims 7-9.

The Examiner has rejected claims 7 and 9 under 35 U.S.C. §102(b) as being clearly anticipated by Brewster, U.S. Patent No. 5,039,046. Applicant cancels claims 7-9 herein.

The Examiner has rejected claims 2-5 and 12-15 under 35 U.S.C. §103(a) as being unpatentable over Isenberg in view of Macek, U.S. Patent No. 5,620,105. Applicant respectfully traverses this rejection. As stated above, Isenberg does not disclose a generally rectangular opening for retaining the head or neck of a suction cup. Claims 2-5 depend on claim 1 and claims 12-15 depend on claim 11 and incorporate the limits contained therein. Thus, applicant respectfully requests that the rejection of claims based on Isenberg in combination with any other reference be withdrawn.

It is respectfully submitted that the application is now in condition for allowance, and such action is requested. No new matter has been added. The examiner is invited to telephone the undersigned if there are any matters which could be discussed to expedite the prosecution of the above-identified application.

Respectfully submitted,

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DPH/KRV

Enc.: Attachment Showing Marked Up Specification and Claims

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ATTACHMENT TO AMENDMENT

MARKED UP SPECIFICATION SHOWING CHANGES RELATIVE TO THE ORIGINAL VERSION

Please replace the fourth paragraph, beginning on line 13, on page 4 with the following:

When the invention is used on wire form products, welding, soldering or brazing are appropriate construction techniques for the device. Attachment techniques or fastener arrangements such as welding, soldering or brazing can be used to attach the wire form to the wire apparatus 1. More than one fastening arrangement can be used. FIG. 2 clearly illustrates one fastening arrangement at transverse side wire 6 and a second fastening arrangement at transverse side 8. When plastic is used, the attaching device could be integrally formed by molding. It is possible to use adhesives to construct the device when it is made from metal, plastic or wood.

MARKED UP CLAIMS SHOWING CHANGES RELATIVE TO THE ORIGINAL VERSION

1. (Thrice Amended) An assembly comprising [device for attaching a suction cup to] a fixture and at least one device for securing at least one [, the] suction cup to the assembly, said suction cup having a compressible head attached to a neck, the neck attached to an engagement member, said device comprising:

a first pair of [horizontal,] planar generally parallel, rigid wires;

a second pair of generally parallel, rigid wires co-planar with said first pair of rigid wires,
each wire of said second pair of rigid wires is transverse[s] to [and engages] each wire of said first
pair of rigid wires defining a generally rectangular opening for receiving the head and for retaining
the neck in said opening; and

at least two fastener arrangements for fastening said device to the fixture.

11. (Twice Amended) An assembly comprising:

a first pair of [horizontal,] planar generally parallel, rigid wires;

a second pair of generally parallel, rigid wires co-planar with said first pair of rigid wires,
each wire of said second pair of rigid wires is transverse[s] to [and engages] each wire of said first
pair of rigid wires, defining a generally rectangular opening [for receiving the head and for retaining
the neck in said opening]; [and]

a fastener arrangement for fastening said assembly to a fixture; and

a suction cup having a compressible head attached to a neck, the neck attached to an
engagement member, said head being insertable into said opening and said neck being retainable in
said opening and said generally rectangular opening for receiving the head and for retaining the neck.